



US Army Corps
of Engineers
Portland District

PUBLIC NOTICE

for After-the-Fact Permit Application

30-Day Notice

Issue Date: June 5, 2009

Expiration Date: July 5, 2009

Corps of Engineers No: NWP-2008-643/1

Oregon Department of State Lands No: 42591-RF

Interested parties are hereby notified that an application has been received for a Department of the Army permit for certain work in waters of the United States, as described below and shown on the attached plan.

Comments: Comments on the described work should reference the U.S. Army Corps of Engineers number shown above and reach this office no later than the above expiration date of this Public Notice to become part of the record and be considered in the decision. Comments should be mailed to the following address:

U.S. Army Corps of Engineers
Mr. Brian J. Wilson
1600 Executive Parkway, Suite 210
Eugene, Oregon 97401-2156

Applicant: Mr. Frank Garcia

Location: 40309 Dusty Lane, Chiloquin, Klamath County, Oregon (Section 25, Township 34 South, Range 8 East)

Waterway: Wetlands within a Floodway abutting Kawumkan Springs and the Sprague River.

Project Description: The applicant proposes to retain an existing driveway constructed thru portions of a wetland near Kawumkan Springs with plans to further lengthen the driveway to access his property and for future development of a residence. The applicant constructed a portion of the driveway in 2006 without Department of the Army authorization. The existing driveway is located on the southern border of the property and extends over 550 linear feet along the fence line. The height of the driveway varies between three feet and six feet and has affected hydrologic connectivity with the wetlands on the southern adjoining property. The actual fill footprint for the driveway is estimated to be up to 1,326 cubic yards of rock material directly impacting 0.2 acres of wetlands. The indirect impacts associated with the driveway include isolation and degradation of three acres of wetlands to include the southern adjoining property.

Mitigation: The applicant has installed barbwire fencing along the northern portion of the property and removed a gate to restrict access by neighboring livestock and game hunting into the Springs. The applicant has planted cotton wood trees near the Spring to re-vegetate the area. If a permit is issued, the Corps will determine what is appropriate and practicable compensatory mitigation. The amount of compensatory mitigation required shall be commensurate with the anticipated impacts of the project.

Purpose: To provide access to a future upland residence.

Drawing(s): Two drawings are attached and labeled NWP-2008-643/1

Additional Information: Additional information may be obtained from Mr. Brian J. Wilson, Project Manager, U.S. Army Corps of Engineers at (541) 465-6765 or email brian.j.wilson@usace.army.mil.

Authority: This permit will be issued or denied under the following:

Section 404, Clean Water Act (33 U.S.C. 1344), for discharge of dredged or fill material into waters of the United States.

Water Quality Certification: A permit for the described work will not be issued until certification, as required under Section 401 of the Clean Water Act (P.L. 95-217), has been received or is waived from the certifying state. Attached is the state's notice advertising the request for certification.

Section 404(b)(1) Evaluation: The impact of the activity on the public interest will be evaluated in accordance with the Environmental Protection Agency guidelines pursuant to Section 404(b)(1) of the Clean Water Act.

Public Hearing: Any person may request in writing within the comment period specified in this notice that a public hearing be held to consider this application. Requests for public hearings shall state with particularity the reasons for holding a public hearing.

Endangered Species: Preliminary determinations indicate that the described activity may affect an endangered or threatened species or its critical habitat. Consultation under Section 7 of the Endangered Species Act of 1973 (87 Stat. 844) will be initiated. A permit for the proposed activity will not be issued until the consultation process is completed.

Cultural Resources: Initial evaluation of the proposed project area indicates the presence of significant cultural resources likely eligible for inclusion in the National Register of Historic Places. An investigation for the presence of potentially eligible historic properties is justified and will be required prior to the Corps' final permit decision.

This notice has been provided to the State Historic Preservation Office, interested Native American Indian Tribes, and other interested parties. If you have information pertaining to cultural resources within the permit area, please provide this information to the Corps project manager (identified on page 1 of this notice) to assist in a complete evaluation of potential effects.

Evaluation: The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the described activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit, which reasonably may be expected to accrue from the described activity, must be balanced against its reasonably foreseeable detriments. All factors, which may be relevant to the described activity will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, consideration of property ownership and, in general, the needs and welfare of the people.

The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Additional Requirements: State law requires that leases, easements, or permits be obtained for certain works or activity in the described waters. These State requirements must be met where applicable, and a Department of the Army permit must be obtained before any work within the applicable Statutory Authority previously indicated may be accomplished. Other local governmental agencies may also have ordinances or requirements, which must be satisfied before the work is accomplished.

PUBLIC NOTICE
Oregon Department of Environmental Quality (DEQ)
Water Quality 401 Certification

Corps of Engineers No: NWP-2008-643/1
Oregon Department of State Lands No: 42591-RF

Notice Issued: June 5, 2009
Written Comments Due: July 5, 2009

WHO IS THE APPLICANT: Mr. Frank Garcia

LOCATION OF CERTIFICATION ACTIVITY: See attached U.S. Army Corps of Engineers public notice.

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WHAT IS PROPOSED: See attached U.S. Army Corps of Engineers public notice on the proposed project.

NEED FOR CERTIFICATION: Section 401 of the Federal Clean Water Act requires applicants for Federal permits or licenses to provide the Federal agency a water quality certification from the State of Oregon if the proposed activity may result in a discharge to waters of the state.

DESCRIPTION OF DISCHARGES: See attached U.S. Army Corps of Engineers public notice on the proposed project.

WHERE TO FIND DOCUMENTS: Documents and materials related to water quality issues as a result of the proposal are available for examination and copying at Oregon Department of Environmental Quality, 401 Water Quality Certification Coordinator, Northwest Region, 2020 S.W. 4th Avenue, Suite 400, Portland, Oregon 97201-4987. Other project materials are available by contacting the Corps per the attached public notice.

While not required, scheduling an appointment will ensure that water quality documents are readily accessible during your visit. To schedule an appointment please call DEQ Water Quality at Northwest Region at (503) 229-5552.

Any questions on the water quality certification process may be addressed to the 401 Program Coordinator at (503) 229-6030 or toll free within Oregon at (800) 452-4011. People with hearing impairments may call DEQ's TTY at (503) 229-6993.

PUBLIC PARTICIPATION:

Public Hearing: Oregon Administrative Rule (OAR) 340-48-0032 (2) states that “ The Corps provides public notice of and opportunity to comment on the applications, including the application for certification, provided that the department (DEQ), in its discretion, may provide additional opportunity for public comment, including public hearing.”

Written comments:

Written comments on project elements related to water quality must be received at the Oregon Department of Environmental Quality by 5 p.m. on the date specified in the upper right section on page one of this notice. Written comments may be emailed, mailed or faxed as described below:

Email - 401publiccomments@deq.state.or.us

Mail - Oregon Department of Environmental Quality, Northwest Region
2020 S.W. 4th Avenue Suite 400
Portland, Oregon 97201-4987
Attn: 401 Water Quality Certification Coordinator

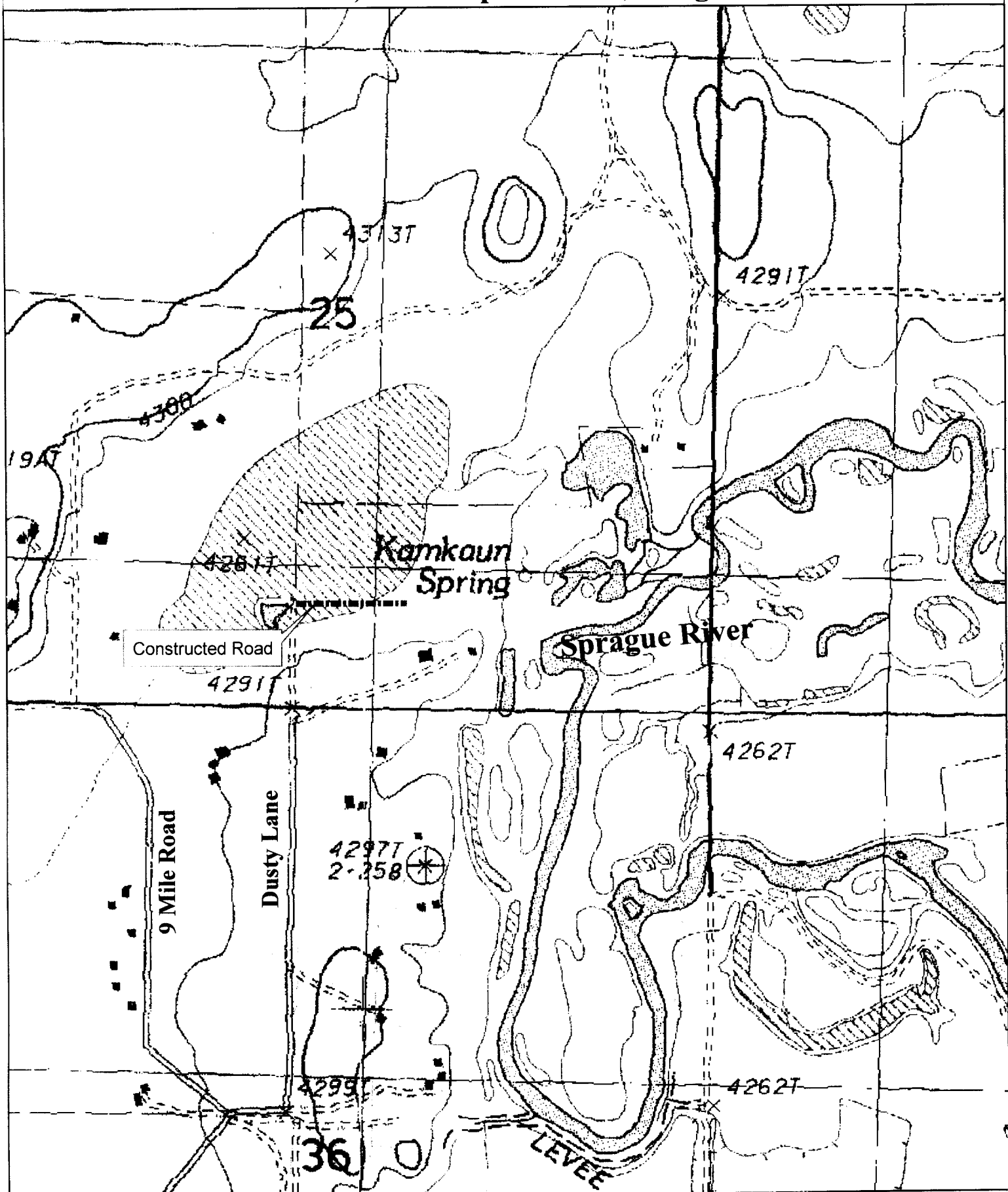
Fax - (503) 229-6957

People wishing to send comments via e-mail should send them in Microsoft Word (through version 7.0), WordPerfect (through version 6.x) or plain text format. Otherwise, due to conversion difficulties, DEQ recommends that comments be mailed in hard copy.

WHAT HAPPENS NEXT: DEQ will review and consider all comments received during the public comment period. Following this review, certification of the proposal may be issued as proposed, issued with conditions, or denied. You will be notified of DEQ's final decision if you submit comments during the comment period. Otherwise, if you wish to receive notification, please call or write DEQ at the above address.

ACCESSIBILITY INFORMATION: This publication is available in alternate format (e.g. large print, Braille) upon request. Please contact DEQ Office of Communications and Outreach at (503) 229-5317 or toll free within Oregon at 1-800-452-4011 to request an alternate format. People with a hearing impairment can receive help by calling DEQ's TTY at (503) 229-6993.

NWP-2008-643/1
Section 25, Township 34 South, Range 8 East



Corps No. NWP-2008-643/1
Road Construction
with associated Home

0 290 580 1,160 1,740 2,320 Feet

Page



Prepared by:
Brian Wilson, USACE
June 1, 2009

